

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

Writ Petition No.1064 of 2007

Sushmita Sen
of Mumbai Indian Inhabitant
residing at Sadguru Sundari
5th floor, Dr Ambedkar Road
Mumbai 400052

..... Petitioner

vs

1. Mun Corpn of Gr Mumbai
having its office at Mahapalika
Bhuvan, Mahapalika Marg,
Fort, Mumbai 400001

2. M.D. Wade
Vigilance Officer (Special Duty)
having his office at Municipal Head
Office, Old Building, 1st floor
Room No. 48, Mahapalika Bhuvan
Mahapalika Marg, Fort,
Mumbai 400001

.... Respondents

Mr Milind Sathe, Senior Advocate, with Mr.N.Engineer
i/b M/s Bachubhai Munim and Co. for the petitioner.

Mr C.U. Singh, Senior Advocate with Ms. Aruna Savla for
respondents

**CORAM: SWATANTER KUMAR,C.J.,&
DR.D.Y.CHANDRACHUD, J.**

**JUDGMENT RESERVED ON 27.8.2007
JUDGMENT DELIVERED ON 11.10.2007**

JUDGMENT(Per Swatanter Kumar,C.J.):

Rule. Respondents waive service. By consent Rule
made returnable forthwith. Heard both sides.

1. According to the petitioner she is an Artist of international repute and she challenges in the present petition under Article 226 of the Constitution, the action of the respondents, which according to her is arbitrary, unreasonable and unjustified. The respondent Corporation i.e. Joint Municipal Commissioner, vide notice dated 5th December 2006 and order dated 28th April 2007 held that the petitioner is liable to pay octroi with penalty as provided under section 478 of Mumbai Municipal Corporation Act, 1888, hereinafter referred to as the Act, and the penalty was 10 times the octroi payable. This is the notice, the legality and validity of which is questioned by the petitioner before this court. The facts as they emerge from the petition are that the petitioner is in possession of Toyota Land Cruiser bearing Registration No. MH01 PA 0047 which has been hypothecated to the petitioner by one Vasu Pandri Thamalla, who is stated to be the owner of the vehicle. The said owner had imported the vehicle to India at Port of Chennai, Tamil Nadu on transfer of residence basis, whereafter the vehicle was brought to Mumbai and was registered with the Regional Transport Office, Mumbai Central, on or about 16th of April 2005. The extract of registration book is at Exhibit A to the petition. The

bill of entry showed that the vehicle was for home consumption. Keeping in mind the invoice value, the custom authorities levied customs duty at Rs.11,52,012/-, including inter alia excise duty, countervailing duty thereon, education cess and all other levies and duties leveaible at the time of the import of the said vehicle. This amount was paid by the owner of the vehicle. After registration of the vehicle in Mumbai, the owner hypothecated the vehicle in favour of the petitioner and to that effect endorsement was made in the registration book.

2. It came, to the notice that certain proceedings had been initiated by the Director of Revenue Intelligence as full custom duty had not been paid and notices had been issued to the petitioner. The petitioner claims to have responded to the said notices. According to the petitioner, she had not imported the vehicle from an area outside Mumbai and no octroi duty or levy could be levied on the said vehicle but she received the notice dated 21st June, 2006 issued by the Vigilance Officer, Special Duty, respondent No. 2, calling upon the petitioner to furnish certain details in relation to payment of octroi on the said vehicle. This was replied to by the petitioner vide letter dated 14th July, 2006 wherein she has stated that the owner was not available and she was not liable to pay any charges, however,

she was willing to pay octroi, if any, payable on the vehicle. Thus, the vehicle was released provisionally in her favour by the Directorate of Revenue Intelligence. Another notice was sent to the petitioner by respondent No.2 on 4th August, 2006, stating "it is surmised that due octroi on the car has been evaded". This was on the provisional value of Rs. 18,93,184/- determined by the DRI under the Customs Act and the customs duty was assessed at Rs. 29,28,781/- totally aggregating to Rs. 48,21,965/-. Respondent No.2, while exercising his powers under the Bombay Municipal Corporation (Levy) of Octroi Rules, 1965, purported to levy octroi at the rate of 4.5 per cent on the said vehicle under entry 25 of Schedule-H of the said Rules, amounting to Rs. 2,16,988/- and also purported to levy penalty at 10 times of the said value amounting to Rs. 23,86,868/-. She was called upon to pay the said octroi duty and penalty within seven days. The petitioner, vide her letter dated 22nd August, 2006, responded to this notice and stated that she would pay octroi duty of Rs. 2,16,998/- but the penalty should be waived. Vide her various letters she consistently took the above stand that she was not liable to pay the duty of octroi much less the penalty and she sent a letter dated 15th September, 2006, through her Counsel informing the factual position to the respondents. However, no response was

received to the said letter and the respondents persisted upon their illegal demands which resulted in filing of Civil Writ Petition No. 2555 of 2006 challenging the notice dated 4th August, 2006, issued by respondent No.2 as aforestated. The said writ petition was disposed of by an order dated 20th October, 2006. The operative part of the order containing the directions issued and the relief granted to the petitioner reads as follows:-

- “(i) The Petitioner to pay the basic octroi of Rs. 2,16,989/- within a period of three weeks from today.
- (ii) In so far as the Respondents claiming additional octroi and penalty the Respondents to give a fresh notice to the Petitioner and after hearing the Petitioner to pass appropriate orders according to law.
- (iii) Consequently, the notice dated 4th August, 2006 does not subsist.
- (iv) To secure the Respondents the Petitioner to furnish a bank guarantee of any Nationalised Bank within three weeks from today in a sum of Rs. 10.00 lakhs. That bank guarantee will not be encashed without the orders of this Court.

Rule made absolute accordingly. No order as to costs.”

3. In pursuance of the above order of the Court, the petitioner furnished a Bank Guarantee for Rs. 10 lakhs in favour of respondent No.1. A fresh show cause notice dated 5th December, 2006 was served upon the petitioner by respondent No.2 to which a reply was sent by the petitioner on 12th December, 2006. After granting personal hearing to the petitioner and considering the written submissions made, the Joint Commissioner (Improvements), in exercise of his powers under Section 478 of the Act and under Rule 24 of the Levy of Octroi Rules passed an order dated 20th April, 2007, directing the petitioner to make the payment of octroi evaded with ten times as penalty within 15 days from the receipt of the order. In the event the penalty had not been paid, the vehicle would be seized by respondent No.2 and would follow the procedure laid down under the Rules for recovery of octroi involved therein and the Bank Guarantee for Rs. 10 lakhs be encashed. The operation of the said order was stayed for a period of two weeks resulting in filing of the present writ petition.

4. Two reply affidavits have been filed on behalf of the Corporation, both by different Vigilance Officers. The first reply was filed on 6th June, 2007, while the latter was filed on 13th August, 2007. The stand taken is more or less common except

to the extent that in the latter reply certain documents have been annexed. According to these respondents, they had read in the newspaper that one Toyota Land Cruiser vehicle had been seized by the DRI from the possession of the petitioner for declaration of under value and less payment of customs duty. The respondents thereafter had issued notice to the registered owner Shri Vasu Pandi Thamalla to produce documents i.e. Original octroi paid receipt and B-Form, no objection certificate by octroi authorities and RTO, registration certificate and original import documents. The notices were returned with the remarks "as not known"/"Not claim". This resulted in issuance of the notices to the petitioner and, in fact, it is the case of these respondents that Mr. Thamalla had imported the vehicle and he never appeared before the taxing authorities. In fact, his whereabouts were hardly known. In substance, the petitioner was the importer of the vehicle and was liable to pay the octroi duty as well as the customs duty. In the reply affidavit, it is also averred that value of the vehicle was suppressed and less custom duty was paid by manipulating the engine number and the date of manufacture. Pursuant to the letter dated 5th June, 2006, the Assistant Director of DRI mentioned the physical chassis Number as UZJ 100-0046370 and engine number as 2 UZ 9116472. The

petitioner being in possession of the vehicle was liable to pay the octroi and penalty which she refused to pay despite notice and order passed by the competent authority. According to the respondents, order dated 20th April, 2007, is in accordance with law and does not call for any judicial interference.

5. In the further affidavit, certain misrepresentations and discrepancies have been pointed out by the respondents. The following facts have been highlighted in the reply:

“5. I say that before the Petitioner's case is considered by this Honourable Court, she should be called upon to explain how she came into possession of the concerned Toyota Land Cruiser bearing registration number MH-01-PA-0047, with all relevant details and particulars supported by documentation to support her case that she is in possession of the said car as she “had advanced some money to Mr. Vasu Pandri Thamalla against the same”(this is the explanation given by her in her letter dated 14.07.2006 annexed at Exhibit “E” to the Petition). I say that from the actual facts, and in particular the glaring discrepancies in various declarations and statements as well as the singular lack of particulars furnished by the Petitioner in response to official requests as well as in the present Petition, it is obvious that the Petitioner was party to a well – planned conspiracy to import a new luxury car into Mumbai by evading various duties including total evasion of octroi, and that the Petitioner's claim that she is in possession of the car only because of “some money” allegedly advanced to an unknown person named Vasu Pandri Thamalla, is patently false and is an attempt to cover up the benami transaction entered into by her to defraud the exchequer. Some of the glaring inconsistencies and discrepancies in the present

case are summarized below, and these are more exhaustively enumerated subsequently :

- (a) The Bill of Entry dated 17.03.2005 and clearance of the car on 31.03.2005 are effected in Chennai Custom House even though the car is purportedly imported under the "Transfer of Residence" scheme, and the address of the alleged importer, Mr. Vasu Pandri Thamalla, is disclosed as Mumbai;
- (b) The address of the alleged importer, Mr. Vasu Pandri Thamalla, is shown as 2/10 Manoli Church, Mahul Road, Chembur, Mumbai-74 in the Bill of Entry dated 17.03.2005, which on verification has been found to be a non-existent address;
- © The address of the alleged importer in his capacity as owner of the car is shown as 43, Mount Blank, 4th Floor, 67/A Napeansea Road, Mumbai-400 006 less than one month later in the Registration Document dated 16.04.2005, at which address no person named Vasu Pandri Thamalla is or was residing (the Society known as Mont Blank Co-operative Housing Society situated at 67/A Napeansea Road has confirmed that Flat 43 on the 4th Floor has been occupied since 1962 by Mr. Rajiv Hingorani and his family, and that no Vasu Pandri Thamalla is residing in the building.
- (d) The alleged importer/owner Mr. Vasu Pandri Thamalla has never come forward or been produced till date to claim the car or any right therein, nor has he been produced to explain any of the discrepancies/falsehoods in the case;
- (e) The car is declared as a "Used" car in the Bill of Entry dated 17.03.2005, whereas it is

described as “New” in the Registration Document;

- (f) A false Chassis Number UZJ 100-0046370 has been declared in the Bill of Entry dated 17.03.2005, apparently to support the false declaration that it was a used car, whereas the actual Chassis Number is UZJ 100-0148254;
- (g) By falsely declaring that the car was a “Used” vehicle with a fraudulently altered Chassis Number, the purchase price of the car in Dubai was falsely shown as USD (\$) 6000/- with a CIF value of USD 13,057/- whereas the actual purchase price as estimated by the DRI was about USD 36,000/- with a CIF value of about USD 43,075/-;
- (h) Though the car was admittedly brought from Chennai to Mumbai, a false declaration was made to the Registration Authority (RTO) in Mumbai that the vehicle had not come in via migration from another State;
- (i) Till date it has not been explained how the car was brought from Chennai to Mumbai without a registration number, and without declaring it at the Octroi Entry Post or paying any octroi thereon;
- (j) There appears to be no specimen signature of the alleged owner Mr. Vasu Pandri Thamalla on the Registration Document though it is required, nor does there appear to be any specimen signature of the alleged financier in the space marked for the same;
- (k) Though the Petitioner claims only to be in possession of the car because she allegedly advanced “some money” to Mr. Vasu Pandri Thamalla, she readily paid an amount in excess of Rs. 20 lakh to the Customs

Authorities on the basis of a “provisional valuation” by the DRI, without even waiting for the Proper Officer of the Customs Department to arrive at a final valuation, and without in any manner questioning the said “Provisional valuation”;

- (l) Similarly, though the Respondent Corporation specifically called upon the Petitioner vide its letter dated 21.06.2006 to disclose her role as regards the import of the car into Mumbai and payment or non-payment of octroi thereon, as also to disclose the person responsible for making of payment of octroi thereon, as also to disclose the person responsible for making of payment octroi to the Corporation, and the actual value of the car and customs duty payable thereon, the Petitioner by her reply dated 14.07.2006 merely indulged in generalizations and vague statements, and stated that Mr. Vasu Pandri Thamalla “is not available at this moment”, and on that basis stated that she was ready to voluntarily pay whatever amount of octroi may be fixed “provisionally” by the Corporation;
- (m) Apart from an utterly vague statement about “some money” being advanced to the apparently non-existent Mr. Thamalla, and an equally vague claim that some organization called M/s. Jai Mata Enterprises had “approached” her for the transaction, the Petitioner has not disclosed any details whatsoever about the transaction of importation of a car through a benamidar, nor has she disclosed how and when she gave an advance to Mr. Thamalla, nor the amount allegedly advanced by her and under what terms or conditions or based on what documentation, and most importantly she has not disclosed why she would be willing to pay a huge amount of over Rs. 20 lakh in evaded

customs duty if the car did not belong to her.”

6. Despite the above discrepancies, Thamalla was shown as importer in the bill of entry dated 17th March, 2005 but the vehicle has been in possession and use of the petitioner. The vehicle by misrepresentation was got imported under the transfer of residence scheme. Thamalla was not available at the address given in either of these documents. The loan transaction relied upon by the petitioner was totally disbelieved by the authorities and it is the case of the respondent-Corporation that the vehicle has been brought into Mumbai by the petitioner and thus she was liable to pay the octroi duty as well as the penalty imposed. The penalty imposed was stated to be ten times of the payable amount. As per the particulars supplied by the Director of Revenue Intelligence, Mumbai Zone, to respondent No.2, the vehicle was stated to be in possession of the petitioner and other details had been given. Besides arguing that the conduct of the petitioner is such that would disentitle her for claiming any relief in exercise of power of this Court under Article 226 of the Constitution of India, it was submitted that the order passed by the authorities is in accordance with law and need not be

interfered with by this Court and the petitioner should be directed to pay the said amount. The authorities have held that the petitioner is liable to pay octroi duty as claimed with penalty ten times within 15 days.

7. We may now refer to certain provisions, a reference to which would be necessary for proper adjudication of the points raised before us.

8. Chapter XVIII of the Mumbai Municipal Corporation Act, 1888 deals with penalties. Section 471 provides a table dealing with the various offences as well as minimum and maximum fine that can be imposed. Similarly, section 472 deals with continuing offences. This Chapter provides for punishment for different kinds of offences. In the present case we are concerned with the provision of section 478 under which the Corporation claims to have issued notice and then passed the impugned order. Sections 478 to 478-1B read as under:

“478- Punishment for offence relating to octroi:- Whoever brings within the limits of Brihan Mumbai any articles liable to octroi without the payment of such tax shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both; and the Court

trying an offence under this section may, on such conviction, also confiscate the articles in respect of which the offence has been committed.

478-1A. Penalty for evasion of octroi:- Where any articles imported into Brihan Mumbai are liable to the payment of octroi, any person who, with the intention of evading payment of the tax introduces or attempts to introduce or causes or abets the introduction of any such articles within the limits of Brihan Mumbai, upon which payment of octroi due on such introduction has neither been made nor tendered, shall, on conviction, be punished with fine (which shall not be less than five times but) which may extend to ten times the amount of the tax payable.

478-1B. Penalty for breach of octroi rules:- Whoever contravenes any provisions of the rates made under section 195-1B or fails to comply with any requisition lawfully made under any such provision shall, on conviction, be punished, for each such offence, with fine which may extend to two hundred and fifty rupees)".

9. Section 478 provides that whoever brings within the limits of Brihan Mumbai any articles liable to octroi without the payment of such tax or octroi shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both; and the Court trying such offence under this section may, on such conviction, also confiscate the articles in respect of which the offence has been committed. Section 478-1A talks about penalty for evasion of octroi in terms of this provision

where any article is imported into Brihan Mumbai are liable to payment of octroi and the person with intention of evading payment of the tax introduces or attempts to introduce or causes or abets the introduction of any such articles within the limits of Brihan Mumbai, upon which payment of octroi due on such introduction has neither been made nor tendered, shall, on conviction, be punished with fine(which shall not be less than five times but) which may extend to ten times the amount of the tax payable. Section 478-1B provides for penalty where the rates specified under section 195-1B are not complied with. Under section 96-1B the Commissioner has power to frame rules with the approval of the Standing Committee in relation to the examination of articles liable to payment of octroi; the inspection, weighing or examining the contents of any conveyance of package for the purpose of ascertaining whether it contains any articles in respect of which octroi is payable; the seizure and confiscation of articles liable to octroi in case of refusal to pay such tax; measures to prevent evasion of tax; and any other matter which is to be or may be prescribed for the levy, assessment or collection of octroi. However, the rules framed by the Commissinoer would come into force only after they have been confirmed by the State Government. Section

213 of the Act further empowers the Commissioner to collect octroi and even dispose of the goods by way of auction.

10. The Division Bench of this Court, while dealing with the provisions of section 398 of the Bombay Provincial Municipal Corporation Act, 1949 in the case of M/s Dhoot Agencies Pvt Ltd vs. Aurangabad Municipal Corporation and ors, 2000 Vol. 102(2) Bom. L.R. 713, held as under:

“3. The point of law that is raised for the consideration of this court in the instant petition is in very narrow compass and that is, whether the Municipal Corporation can impose penalty without prosecution resulting into a conviction.

4. The Corporation has filed its affidavit in reply and relied upon the provisions of Section 398 of the Bombay Provincial Municipal Corporation Act, 1949. It would be relevant to reproduce the provisions of section 398 of the said Act.

“398. Where any vehicle, animal or goods imported into the limits of the city are liable to the payment of toll or octroi any person, who, with the intention of defrauding the Corporation, causes or abets the introduction of or himself introduces or attempts to introduce within the limits of the city any such vehicle, animal or goods upon which payment of the toll or octroi due on such introduction has neither been made nor entered, shall, on conviction, be punished with fine which may extend to ten times the amount of such toll or octroi or to

two hundred and fifty rupees, whichever may be greater”.

5. It is clear that though the Municipal Corporation has the power to impose penalty, the condition precedent for such penalty being imposed is conviction in a criminal prosecution and without there being a conviction there is no scope for levying the penalty for evading octroi. Admittedly, no criminal prosecution was initiated against the petitioner and the learned counsel for the Corporation submitted that this was not done solely at the request of the Petitioner's proprietor/partner. When a statute provides certain pre-condition for imposing penalty on account of evasion of octroi payment, it is mandatory that those conditions are followed before the penalty is levied and consequently if the Corporation failed to initiate criminal prosecution it had no authority in law to levy the penalty for evasion of octroi payment., There cannot be an agreement contrary to the provisions of law and it is high time that the Municipal Administration is awakened to follow the provisions of law meticulously.

6. From the affidavit in reply we have also noticed that the petitioner has been issued notice in Form No.V under rule 24 of the Octroi Rules for recovery of octroi in respect of 29 vehicles. There is no denial to this demand till this date and, prima facie, it has to be accepted that there are some outstanding payments on account of octroi due to the Corporation from the petitioner”.

11. Plain reading of the aforestated relevant provisions it is clear that the provisions of sections 478 and 478-1A are definite in expression and unambiguous and do not refer to the

Municipal Corporation any where. Furthermore, even for the sake of argument, it is assumed that the Municipal Corporation has any jurisdiction to impose fine/penalty in terms of section 478-1A, even then the condition precedent of such person having been convicted has to be satisfied. Without this condition being satisfied the Corporation will have no jurisdiction to impose the penalty. The issuance of the notice no where states that the petitioner has been convicted by the court or any other forum competent to do so and thus the Corporation wishes to impose the said penalty. In fact the impugned order is without jurisdiction and ex-facie without authority of law. Once the order does not conform to the statutory provisions then it would be liable to be quashed. The authorities have thus apparently exceeded their jurisdiction or may have exercised the jurisdiction not vested in them. The matter involves question of lack of jurisdiction for non compliance of statutory provisions and as such the order cannot stand scrutiny of law.

12. In this scheme under the statute one question required to be considered is whether the Corporation has any power to impose punishment or fine as contemplated under section

478-1A of the Act. The provisions of section 478 to 478-1B nowhere refers to the Corporation or any other authority of the Corporation. Section 478 specifically talks of a Court while the other two provisions require that on conviction the fine or punishment would follow. Normally under these provisions the court would have power to hold a person guilty of the offence stated therein and convicted for such offence and then award requisite punishment as stated under these three provisions. The underlying feature of the provisions section 478 is that whoever brings any article within the limits of Brihan Mumbai liable to octroi, without payment of such tax or octroi, is liable to action while under section 478-1A such persons who evades payment of octroi or even attempts to introduce or causes or abets the introduction of any such articles and brings such articles into Brihan Mumbai, where payment of octroi has neither been paid nor tendered is liable for penalty. Despite such a fine distinguishing line between these provisions, it is necessary that a person has to be convicted as contemplated under these provisions before the penalty contemplated under section 478-1A could be imposed. The concept of 'conviction' as known to the criminal jurisprudence, is conviction by a court of competent jurisdiction and would hardly fall within

the domain of the administrative authority, particularly when the provision itself refers to the discretion of the court. The language of section 478 or 478-1A is quite in contradistinction to the language of section 398 of the Bombay Provincial Municipal Corporation Act, 1949, where the section dealing with the penalty for evasion of octroi or toll, does not refer to the court but mentions the word 'Corporation'. Even there the person who evades or does not pay the octroi or defrauds the Corporation of such octroi which duty has neither been tendered nor paid, on conviction is liable to fine, which may extend 10 times the amount of such octroi. Even there the Courts have taken a view that the Corporation can impose such fine only when the person has been convicted. In other words conviction shall be a condition precedent to the imposition of fine under that provision.

13. The learned counsel for the respondents while relying upon the judgments of the Supreme Court in the case of State of Maharashtra and ors vs. Prabhu, (1994) 2 SCC 481, State of Maharashtra vs Digambar, (1995) 4 SCC 683, and M.P. Mittal vs State of Haryana and ors, (1984) 4 SCC 371, contended that because of the conduct of the petitioner, which is blameworthy the court should not interfere in exercise of its powers under

Article 226 of the Constitution. It is also contended that even if the impugned order suffers from some infirmity, still the court may not interfere on the ground that quashing of the order would result in great harm to the society. The relief claimed by the petitioner should also be refused for the reasons that the petitioner wishes to secure dishonest advantage or perpetuate the unjust gain by recourse to these proceedings before this court.

14. No doubt the conduct of the petitioner as well as owner of the vehicle Mr. Thamalla is blameworthy, the Directorate of Revenue Intelligence had taken action and despite best efforts the owner of the vehicle could not be traced. The petitioner has also altered her stand to her convenience. Normally exercise of discretionary jurisdiction under Article 226 can be denied in such cases but for the fact that the action of the respondents is totally without jurisdiction. Once the act is without jurisdiction or in violation of statutory provisions, same cannot stand to scrutiny of law and cannot be sustained by the court. Still the facts which have been stated by the respondents in their replies clearly show that the authorities have failed to take action in accordance with law and it is shown that despite the revenue intelligence department being involved they cannot even find

out whereabouts of the owner of the vehicle Mr. Thamalla. It is the settled principle of law that in exercise of writ jurisdiction the court even by granting some relief to the petitioner, can always direct the concerned authorities to proceed in accordance with law and take action against the erring person. In the case of *M/s Shiv Shankar Dal Mills and ors vs. State of Haryana and ors*, (1980) (2) SCC 437, the Supreme court stated that the jurisdiction under Article 226 being discretionary the court can pass orders in terms of public interest and equity. The inherent powers of the court has its roots in necessity and it's breadth is co-extensive with the necessity. Direction contrary to the statutory provisions cannot be issued by the court but directions for enforcement of law and maintaining the dignity of the rule of law would always be sustainable ground for issuance of appropriate directions. Refer to *Sri Vidya Sagar vs Sudesh Kumari and ors*, (1976) 1 SCC 115.

15. Whatever status and stature of the person, nobody is above the law. Law must take its due course and deal with the erring and defaulting persons strictly in accordance with law and if found guilty they must be punished. A right to protection always correspond to the duty to act in accordance with law. The person who claims protection must act justly and fairly.

Hardly any right can be claimed finding on a wrong. In the present case it is stated that to some extent the customs duty has been evaded, octroi duty has not been paid, and there has been misrepresentation of facts. It is primarily for the lack of jurisdiction that we are persuaded to quash the impugned order but we are conscious of the basic concept of law that the court would not approve of blameworthy conduct of the petitioner particularly when it offends the laws in force. The authorities ought not to have ignored their responsibilities of proceedings against the erring person. There are allegations of misrepresentation. There is nothing on record to show that the proceedings initiated by the DRI have been concluded. There are also allegations about payment of insufficient custom duty, making false records, registering the car being used one while the car was new and being imported under transfer of address, mentioning wrong engine and chassis numbers, under valuing the vehicle and finally submitting false declaration to the registration authorities. These are the factors which the court cannot ignore and permit the petitioner and Mr. Thamalla to take advantage of such acts, misdeeds and omissions. These acts particularly violated the laws and to ensure proper administration of justice it is necessary that the concerned authorities should be directed to take appropriate action against

the petitioner and Mr. Thamalla, but before we do so we would direct issuance of notice to the petitioner as well as Mr. Thamalla, who is not party to this petition, to explain as to why such directions be not issued against them.

16. Rule made partly absolute and the writ petition is partly allowed with the above directions, leaving the parties to bear their own costs.

CHIEF JUSTICE

DR D.Y.

CHANDRACHUD,J.

